

# ARKANSAS SUPREME COURT

No. CR 07-179

MICHAEL F. JACKSON  
Appellant

v.

STATE OF ARKANSAS  
Appellee

**Opinion Delivered     June 14, 2007**

PRO SE MOTION FOR ACCESS TO  
HEARING TRANSCRIPT AND  
EXTENSION OF TIME TO FILE  
APPELLANT'S BRIEF and PRO SE  
MOTION FOR DUPLICATION OF  
BRIEF AT PUBLIC EXPENSE AND  
FOR ORDER COMPELLING CIRCUIT  
COURT TO ACT ON PETITION FOR  
WRIT OF HABEAS CORPUS [CIRCUIT  
COURT OF MISSISSIPPI COUNTY,  
CHICKASAWBA DISTRICT, CR 98-  
281, HON. JOHN N. FOGLEMAN,  
JUDGE]

MOTION FOR ACCESS TO HEARING  
TRANSCRIPT AND EXTENSION OF  
TIME TO FILE APPELLANT'S BRIEF  
MOOT IN PART AND GRANTED IN  
PART; MOTION FOR DUPLICATION  
OF BRIEF AT PUBLIC EXPENSE AND  
FOR ORDER COMPELLING CIRCUIT  
COURT TO ACT ON PETITION FOR  
WRIT OF HABEAS CORPUS DENIED  
IN PART AND DISMISSED IN PART.

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## PER CURIAM

On August 25, 2006, appellant Michael F. Jackson, an inmate in the Arkansas Department of Correction, filed a petition in the trial court for writ of mandamus and declaratory judgment concerning his conviction on a charge of first-degree battery. The trial court entered an order granting some relief

on January 12, 2007. Prior to the entry of that order, appellant filed a motion for reconsideration, indicating that the motion followed a ruling made at a hearing on December 27, 2006. The trial court denied the motion to reconsider in an order entered January 22, 2007. Appellant timely filed notices of appeal as to both orders and lodged an appeal in this court.

Appellant filed a motion requesting access to the hearing transcript and additional time in which to file his brief-in-chief. As no transcript of any hearing was included in the record lodged in this court, we remanded the matter to the circuit court to settle the record because the transcript of a hearing on appellant's petition filed August 25, 2006, was likely to be pertinent to any review of the matter, and, accordingly, it was important to know if such a hearing was actually conducted. *Jackson v. State*, CR 07-179 (Ark. Apr. 26, 2007) (per curiam).

The remand has now been returned in the form of a transcript of a hearing held December 27, 2006, in which matters relating to the issues raised in appellant's petition for writ of mandamus and declaratory judgment were discussed. Ordinarily, we would grant appellant's motion for access to the record of the hearing inasmuch as an appellant must abstract those portions of the record pertinent to the appeal, but appellant tendered his brief-in-chief on June 11, 2007, which indicates that he no longer desires to obtain the hearing transcript to prepare the brief. As the brief has been tendered, we hold the request for access to the hearing transcript to be moot and grant the request for an extension of time to file the brief.

We would direct that the brief be filed as of the date of this opinion, but appellant tendered only two copies of the brief rather than the seventeen copies of the brief required by Ark. Sup. Ct. R. 4-7(d)(1). With the two copies of the brief, appellant also filed a motion asking that the brief be duplicated at public expense and for other relief. We deny that portion of the motion asking that the brief be duplicated because appellant has failed to demonstrate that he is entitled to have the brief

duplicated at no cost to him.

There is no right under our rules or any constitutional provision to have a brief or a portion of a brief in a civil case duplicated at public expense. *See Maxie v. Gaines*, 317 Ark. 229, 876 S.W.2d 572 (1994) (per curiam). Nevertheless, in those cases where the indigent appellant makes a substantial showing in a motion that the appeal has merit and that he or she cannot provide the court with a sufficient number of copies of the brief, we will request that the Attorney General duplicate the brief.

In the motion at bar appellant has failed to offer any showing of substantial merit to the appeal. Accordingly, he has not shown that the brief should be duplicated at public expense. Our clerk is directed to return the tendered brief to the appellant so that he may duplicate it. Seventeen copies of the brief are due here no later than fifteen days from the date of this opinion.

Appellant also asks in the motion that this court place a petition for writ of habeas corpus from another case “in his folder, of the clerk, in that office, in this case” and further compel the circuit court to make a ruling on the habeas petition. That portion of the motion is dismissed as it appears to be a request to incorporate some other proceeding into the instant appeal and additionally seeks to transform this appeal into a mandamus action.

Motion for access to hearing transcript and extension of time to file appellant’s brief moot in part and granted in part; motion for duplication of brief at public expense and for order compelling circuit court to act on petition for writ of habeas corpus denied in part and dismissed in part.